

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

2014 JAN -3 P 2:57

JOHN A. SANFILIPPO
CLERK

Ernesto Rivera
(Full Name of each Plaintiff)

Plaintiff(s),

Case No. **14-C-0006**
(Supplied by Clerk)

v.

Kettle Moraine Correctional
Institution-H.S.U And Medical staff
(Full Name of each Defendant)

Defendant(s).

COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

I. PLACE OF PRESENT CONFINEMENT (Provide full address)

Kettle Moraine Correctional Institution
W9071 Forest Drive, Plymouth, WI. 53073

A. Is there a grievance procedure in your prison/jail? YES ☒ NO ☐

B. Have you filed a grievance concerning the facts relating to this complaint?

YES ☒ NO ☐

II. PARTIES

A. Your name (Plaintiff) Ernesto Rivera

B. Institutional Identification Number 425661

C. Social Security Number (Last Four Digits Only) 8009

(For additional plaintiffs provide the information in Sections I and II, in the same format, on a separate page.)

PARTIES - continued

E. DEFENDANT (name) C. Lisa Hocutt

is employed as nurse-RN

at Kettle Moraine Correctional Institution

F. Additional DEFENDANTS (name, position, and place of employment):

Beth-nurse-RN" At H.S.U. in Kettle Moraine Correct. Inst

Graf, Karin-RN" At H.S.U. in Kettle Moraine Correct. Inst

Palm, Debra A-RN" nurse At H.S.U. in Kettle Moraine Correct. Inst

Robinson, Kim-RN" nurse At H.S.U. in Kettle Moraine Correct. Inst

DepaewK-RN" nurse At H.S.U. in Kettle Moraine Correct. Inst

III. PREVIOUS LAWSUITS

A. Have you begun other lawsuits in state or federal court relating to the same facts involved in this action? ☐ YES ☒ NO

B. Have you begun other lawsuits in state or federal court relating to your imprisonment? ☐ YES ☒ NO

C. If your answer is YES to either of the above questions, provide the following requested information.

1. Parties to the previous lawsuit

Plaintiff(s): _____

Defendant(s): _____

2. Date filed _____

3. Court where case filed (if federal court, name district: if state court, name the county) _____

PREVIOUS LAWSUITS - continued

4. Case number _____
5. Nature of claim _____

6. Current status (for example: open, closed, on appeal) _____
7. If resolved, date of resolution _____
8. If resolved, state whether for the plaintiff or the defendant: _____

(For additional cases, provide the above information in the same format on a separate page.)

IV. STATEMENT OF CLAIM

- A. State as briefly as possible the facts of your case. Describe how each named defendant is involved. Include the names of other persons involved, dates, and places. Describe specifically the injuries sustained. Do not give legal arguments or cite cases or statutes. You may do that in Section "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Unrelated claims must be raised in a separate civil action.

On June 17th, 2013 At About 8:30 P.M. I experienced extreme
Amount of Pain in my stomach. I told Sgt. Jozwiak After count
Clear Around 10:15 P.M. He called the "H.S.U" and told me that there
were no Doctor or Nurses there and that I would have to wait
Until the next day. on the second day 6/18/13 I went to H.S.U. and I
Told the nurse, Depaenk what I was feeling. I told her that there
was extreme Amount of Pain in my stomach. she told me that I
had nothing. that it was either "flu" or "gas" I argued that it was
not that the was something inside my stomach. she still insisted the
it was gas or flu the it go away if I walk it out and drink water

STATEMENT OF CLAIM - continued

And get me some ^{MAPAP} ~~MAPAP~~ Told her that will not work. but she send me back ^{to} the Unit. After some time I was feeling ~~was~~ ^{real} sick I insisted to see the nurse again. and Lisa Hocutt-RN Told me after I explain what I was suffering and the Pain I have the I dont have nothing Just gas or flu the it will go AWAY.

B. State briefly your legal theory. You may cite appropriate authority.

I have Pain for 3 day and even I told the nurses it was my Appendicitis they keep saying All I have was "gas" or "flu" the it will go AWAY WALKIN and drink water and ignored me when I Told them I WAS real sick the I cannot WALK or sleep the I have A experienced extreme amount of Pain and my stomach hurt. they deny it. / A medical need may be Serious if it cause Pain "Cooper v. Casey, 97 F.3d 914, 916-17 (7th cir 1996) or it otherwise subjects the detainee to a substantial risk of serious harm, "Farmer v. Brennan, 544 U.S. 825, 114 S.Ct. 1990, 128 C.Ed.2d 811 (1994) Harris v. Granger, Snipes v. Petella, 95 F.3d 586, 590 (7th cir 1996) Estelle v. Gamble, 429 U.S. 87, 103, 975, Ct. 285, 501, Ed. 2d 251 (1976) Deliberate indifference to serious medical need of Prisoners Constitutes. the Unnecessary and wanton infliction of Pain Proscribed by U.S. Constitution VIII Amendmen. this is true whether the indifference is manifested by Prison doctor in their response to the Prisoner needs or by Prison guards in intentionally denying or intentionally interfering with the Treatment, deliberate indifference to a Prisoners serious illness or injury state a cause of action Under 42-USC 1983 Lack of "adequate organization and Control in the Administration of Health Services Supported finding of Eighth Amendment violation, supervisor had a duty "to care fully hire, Train and supervise Adequate Medical Personal Capable of evaluating and meeting reasonable medical needs) Oxendine v. Kaplan, 241 F.3d 1272, 1278-79 (10th cir 2001)

note: Continuation of Page: 4 of 5
STATEMENT OF CLAIM

walking and drinking water even the other nurses said they just to have the same pain then me. I told them, I don't think so because I was in a big pain the it was my appendicitis, they all say "no" you don't have that, and send me back to my unit and get me 'Alcalak' even I ask her for a doctor but she told me the it was no Dr till 6-20-13 I ask for and out side doctor and I was deny. I told her the Alcalak will not help me, I go back to the unit. About 3:00 P.M. I ask the Sgt Wozniak to call to see a nurse, he call. but the nurse told him the put me at the phone. I talk to her, she told me the I need to walk and drink water. the I can't go to my bed, I argue the that will not take this pain away the it was not gas or flu the it was appendicitis, but she deny if the it was not. I ask if she gonna see me, she said no. I ask to see a Dr, she said I was in the Dr list for 6-20-13) I ask to see a out side Dr. but she say no. I told her the she was wrong the she was denying me medical attention. later in some hours I see a nurse, but it was all the same. I was in so much pain. on 6-19-13 I go to see nurse Lisa, and she keep saying Me the same thing the she get me all they have the cannot do any more for me, the I was in the Dr list for 6-20-13 and send me back to my unit. it pass some time and I ask to see a nurse again because the pain was out of control. I see the nurse, Depaemk, even I saw before Graf Karim. and Depaemk-RN all told me the same thing the walk it out and drink water the they can't do any more for me. I ask to see a Dr or out side Dr and I was deny. About 145: PM I ask Sgt Lapine to call H.S.U. because I feel I gonna die the my appendix was about to broke. he saw me and told me, the I look real sick, he call H.S.U. and Nurse Kim ~ Beth refuse to see me. the tell me the I need to walk and drink water, he came and told me ^{what} she said. I again told Sgt Lapine the I was sick like this for 3 day with to day the I don't want to die if my appendix broke

he said ok I will call again. he call H.S.U. and again the nurses Kim and Beth deny me medical attention to a serious medical need. the sgt told me the he will write in the record book what happen and what the nurses said in case you gonna sue them & don't want my legal problem. the it was not the first time this happen. About 2:00 P.M. I pass out in my room. C.O. Laufer and Redeker came and help me taken me to H.S.U. and nurse Palm. was scare and send me to E.R. where I was diagnos with Acute extensive Appendicitis, Fever, and leukocytosis, Plus acute ruptured gangrenous Appendicitis. and the surgery was a Laparoscopic Appendectomy with Pelvic and Abdominal irrigation this injury was for they delay and lack of Profesional I can die for 3 day I was I suffering ind Pain and it is a violation nurse Palm refuse to help me and get mad when I pass out and the C.O. Laufer and Redeker TAKE me to H.S.U. To her. she said "now what you have" but then she send me to the E.R.



January 1 2014

V. RELIEF YOU REQUEST

State briefly and exactly what you want the court to do for you. Use this space only to request remedies for the injuries you complain about.

I would like the court to TAKE into the Consideration that do to the lack of medical care being provided here. I was in fear for my life. I would like the Kettle Moraine Correctional Institution to take full responsibility for their negligence. they did not provide adequate Medical care and were irresponsible in upholding the 8th Amendment rights. I AM ASKING the court to have the institution fully Compensate me for all my pains and suffering and injury mental distress. I have to take for not taking this complain serious and unnecessary infliction of pain

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 1 day of January, 2014.



Signature of Plaintiff(s)

(If there are multiple plaintiffs, each must sign the complaint)

Institutional Identification Number(s) 425661